IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 20943 of 2007(R)

PETITIONER:

M.P.SHAMSUDEEN, AGED 67,
S/O. MEETHEENKUNJU, PEZHUVILA VEEDU,
THAZHAMEL MURI, ANCHAL VILLAGE,
PATHANAPURAM TALUK, KOLLAM.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENTS:

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1. DISTRICT COLLECTOR,
KOLLAM.

2. ANCHAL GRAMA PANCHAYATH,
REP. BY SECRETARY, ANCHAL P.O., KOLLAM.

BY ADV. SRI.C.J.JOY
BY GOVERNMENT PLEADER SRI. M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.20943/2007 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE DOCUMENT DTD. 28/09/1998 WITH NUMBER 2998/1998.**

EXT.P2: **COPY OF THE SALE DEED NO.806/1990 DTD. 28/03/1990.**

EXT.P3: **COPY OF SALE DEED NO.807/1990 DD. 28/03/1990.**

EXT.P4: **COPY OF THE PLAINT IN O.S.NO.208/2007 PENDING ON MUNSIFF COURT, PUNALUR.**

EXT.P5: **COPY OF COMMISSION REPORT IN O.S.NO.208/2007.**

EXT.P6: **COPY OF THE JUDGMENT DTD. 18/06/2007 PASSED IN WP(C) NO.18293/2007.**

EXT.P7: **COPY OF THE COMMUNICATION DTD. 13/06/2007 ISSUED BY DISTRICT SUPPLY OFFICER.**

/TRUE COPY/

P.A.TO JUDGE

KSS

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.20943 of 2007

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Dated this the 17th day of August, 2007.

JUDGMENT

This is a case where the father-in-law and son-in-law stand together to secure a common cause against a Local Self-Government Institution. The son-in-law runs a ration shop in the building belonging to the father-in-law. He moved this Court by saying that the Panchayat which owns the adjacent land is blocking a public way and a private way. Ultimately, the ration dealer son-in-law concluded that litigation agreeing that he will surrender his right, if any, and will also withdraw the suit pending against the Panchayat. This Court was benevolent to issue a judgment ordering the availability of passage to the shop building for a month. The son-in-law has thus left the scene and the father-in-law is now before this Court. He is the plaintiff in the suit pending in the civil court against the Panchayat. He complains that the public way and the private way had been blocked by the Panchayat. It is that very plea that did not find

favour in the earlier rounds of litigation at the instance of the son-in-law. Not only that, even if the petitioner has any semblance of right, he had already instituted a civil suit and that is pending before the civil court. I may not venture to say that if a premise is unfit for rationing business, the licence should be cancelled. But the predominant interest of the rationing authorities will have to be that the ration articles should be made smoothly available to the card holders and to whom the ration articles are to reach under the schemes of the Government. Petitioner has failed to demonstrate any sustainable case in this writ petition. Hence, this writ petition is dismissed without prejudice to any of his rights to prosecute the civil suit pending between the parties.

Thottathil B.Radhakrishnan,
Judge.

sl.